

May 19, 2004

MEMORANDUM

TO: Members, Board of Corrections

FROM: Joseph W. Hagenlocker, Manager, Compliance & Accreditation Unit

SUBJECT: Proposed Motion to Modify Previously Approved Model Plan
Language

On September 17, 2003, the Board of Corrections approved an Emergency Regulation in the form of a Model Plan as required by §53.1-131.3; Payment of Costs Associated With Prisoner Keep. The following was background information presented for discussion and approval at that time:

Introduction

The 2003 session of the Virginia General Assembly passed House Bill 2765 which became law effective July 1, 2003. This legislation amended the Code of Virginia by adding a section numbered 53.1-131.3: "Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners' keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes."

In compliance with the requirement of House Bill 2765 that the Board of Corrections develop a model plan for such a program, a committee of Sheriffs, Jail Administrators, Board of Corrections members and Department of Corrections staff was organized. A literature review and interviews with administrators of similar programs throughout the country were conducted. The Macomb County, Michigan Jail in 1985, developed

the first fee charging payment of costs associated with prisoners' keep program. Base fees are from \$6.00 to \$56.00 with annual revenues exceeding \$200,000. The committee could not find any successful litigation challenging the implementation of such fees.

The result of this research has been the development of a model plan to help guide Virginia Sheriffs or Superintendents who elect to establish a program to charge in-house inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners' keep.

Program Components

Based upon a review of existing programs in the nation and Virginia's medical copay program the following components are considered essential for successful implementation of programs charging fee for prisoners' keep programs:

1. Written policy and procedure, unless federal contract precludes, which addresses items such as fee amount, inmate orientation and notification, payment and refund procedures and accounting procedures, and which, if any inmates are exempted;
2. Development of administrative forms; and
3. Staff training for security and administrative personnel.

Model Plan

Upon the commitment of an inmate to jail, intake processing should include the issuance of a written statement informing the inmate of the fee for prisoners' keep program and method of payment. Orientation should include all pertinent information on fees and program areas. Inmate's signature should be required to document notification.

If the release date and the date of arrival are within 24 hours, the inmate shall be charged only the equivalent of one day's fee.

Whenever an inmate has been charged the prisoner's keep fee, the deduction shall be reflected on the inmate's account. Should the inmate have no funds, then the account may be debited until funds are available.

The Department now requests to revise some language in the previously approved Plan. As a result of the Department's concerns, Chairman Hester requested Mr. Hagenlocker to facilitate a meeting of the original Model Plan committee to consider the evaluate and review the Department's request. Two issues addressed during this process were: 1) The consideration of providing a refund of funds collected relative to the prisoner's keep for those inmates adjudicated "not

guilty;” and, 2) that those inmates identified as “state responsible” be exempt from such fee collection, neither of which were addressed initially.

As a result, the Committee came up with revisions as shown below in italics. They occur in both the Introduction and the Program Components portions of the previously approved Plan. The suggested additional language is provided for review and discussion at the May Correctional Services Committee meeting.

A new Board motion will be offered as follows:

Suggested Board Motion:

To approve the Model Plan as revised in conjunction with Code of Virginia §53.1-131.3; Payment of Costs Associated with Prisoner Keep, Effective July 1, 2003. The previously approved Plan will now read in its entirety:

Introduction

The 2003 session of the Virginia General Assembly passed House Bill 2765 which became law effective July 1, 2003. This legislation amended the Code of Virginia by adding a section numbered 53.1-131.3 as follows:

Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners’ keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes.

In compliance with the requirement of House Bill 2765 that the Board of Corrections develop a model plan for such a program, a committee of Sheriffs, Jail Administrators, Board of Corrections members and Department of Corrections staff was organized. A literature review and interviews with administrators of similar programs throughout the country were conducted. The Macomb County, Michigan Jail in 1985, developed the first fee charging payment of costs associated with prisoners’ keep program. Base fees are from \$6.00 to \$56.00 with annual revenues exceeding \$200,000. The committee could not find any successful litigation challenging the implementation of such fees.

The result of this research has been the development of a model plan to help guide Virginia Sheriffs or Superintendents who elect to establish a program to charge in-house inmates *(regardless of jurisdictional responsibility notwithstanding)* a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners’ keep.

Program Components

Based upon a review of existing programs in the nation and Virginia's medical copay program the following components are considered essential for successful implementation of programs charging fee for prisoners' keep programs:

1. Written policy and procedure, unless federal/*state* contract precludes, which addresses items such as fee amount, inmate orientation and notification, payment and refund procedures and accounting procedures, and which, if any inmates are exempted. ***Procedures shall include provisions for a refund to any person held in a jail/local lockup who is adjudicated "not guilty" on all filed charges. Any person receiving deferred adjudication by the Court pending community corrections programming or whose charges are dismissed/nolle prosequi as the result of successfully fulfilling other court mandates shall not be eligible for a refund. Any inmate eligible for a refund must submit a request in writing within 60 days of his/her release. Refunds shall be made from the appropriate funding sources, e.g. commissary funds.***
2. Development of administrative forms; and
3. Staff training for security and administrative personnel.

Model Plan

Upon the commitment of an inmate to jail, intake processing should include the issuance of a written statement informing the inmate of the fee for prisoners' keep program and method of payment. Orientation should include all pertinent information on fees and program areas. Inmate's signature should be required to document notification.

If the release date and the date of arrival are within 24 hours, the inmate shall be charged only the equivalent of one day's fee.

Whenever an inmate has been charged the prisoner's keep fee, the deduction shall be reflected on the inmate's account. Should the inmate have no funds, then the account may be debited until funds are available.